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IN THE HIGH COURT OF KARNATAKA AT BANGALORE  
DATED THIS THE 4TH DAY OF JUNE 1998

**PRESENT**

THE HON'BLE MR. R.P. SETHI, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE K. R. PRASAD RAO

WRIT PETITION NO. 2458/1992

BETWEEN:-

1. Sri Siddalingaiah,  
S/o Sri Lingappa,  
aged about 62 years.
2. Sri V. Ugrappa,  
S/o Sri Veeranna,  
aged about 42 years.
3. Sri Rangappa,  
S/o Chikkarangappa,  
Aged about 52 years.
4. Sri Narasaraju,  
S/o Sri Narasimhaiah,  
aged about 30 years.
5. Sri Rangappa,  
S/o Sri Chikkanarayappa,  
aged about 67 years.
6. Sri Hanumantharayappa,  
aged about 38 years.
7. Sri Kadarappa,  
S/o Sri Narasappa,  
aged about 37 years.
8. Sri Narasimhaiah,  
S/o Sri Naraseeyappa,  
aged about 52 years.

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Petitioners 1 to 8 are all residents of Amruthagiri, Kora Hobli, Tumkur Taluk and District.

...PETITIONERS

(By Sri R.B.Sadasivappa & Krishna Murthy, Adv.)

AND: -

1. Beladhara Mandal Panchayat, Tumkur Taluk by its pradhan and Secretary, Beladhara, Tumkur Taluk and District.
2. The Chief Secretary, Jilla Parishat, Tumkur District, Tumkur.
3. Sri M. Basavaiah, S/o Sri Muddaramaiah, aged about 57 years, Resident of Amruthagiri, Kora Hobli, Tumkur Taluk & District.

...RESPONDENTS

(By Sri K. Sreedhar, for R2 and Sri K.N. Vijayashankar, for R-3, Advs)

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This Writ Petition filed u/a 226 & 227 of the Constitution of India praying to quash Annexures-A and B dated 26.10.88 and 3.1.1992 bearing No. 15/91-92 issued by R1 and R2 respectively. and etc

This Writ Petition coming on for preliminary hearing, this day, C.J., made the following:-

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ORDER

Heard the learned counsel appearing in the case.

2. In this petition filed in Public Interest prayer has been made for quashing of the licence granted to the 3rd respondent for the purpose of construction of building on the schedule land. The action of the respondent is challenged mainly on the ground that the land upon which the building is stated to be raised is not in possession of respondent-3. However in his objection statement, the 3rd respondent has submitted that the land in dispute is his property which he had purchased by means of registered sale deed, ~~which is not mentioned in~~ Annexure-R1. It is submitted by the learned counsel for the petitioner that the title of the respondent has already been challenged in Civil Court in OS.NO.17/90. The disputed questions of fact regarding the title over the property cannot be adjudicated upon by us in the writ proceedings. Once the petitioners have already resorted to the remedy of Civil Suit, they can be given liberty

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of seeking relief <sup>of</sup> ~~for~~ cancellation of the licence as a consequential relief in the suit already filed. It is apprehended <sup>that</sup> during the interval when the petition is disposed of and the suit is amended, the respondents may raise ~~a~~ the construction and frustrate the relief claimed by the petitioners. Such an <sup>apprehension</sup> ~~application~~ expressed can be taken care of <sup>by</sup> protecting the interest<sup>y</sup> of the public as projected in the present writ petition.

3. In the circumstances, the writ petition is disposed off <sup>by</sup> giving the petitioners liberty to amend the plaint already filed by way of OS.NO.17/90. by incorporating the consequential relief of setting aside of the permission/ licence granted to the <sup>325</sup> respondent. Such application if filed shall be considered and disposed of strictly in accordance with the provisions of law. In case the prayer for amendment of the plaint is allowed, the Civil Court shall also be entitled to grant the appropriate relief by way of temporary injunction to protect the rights

of the parties. The petitioners are allowed one month time to file the application for amendment of the plaint in accordance with law and in the light of the observations made herein above. If such an application is filed the same shall be disposed off by the Trial Court where the Civil Suit between the parties is pending. The interim direction issued by this Court in this petition shall continue for a period of one month and if an application for amendment is filed, be continued till the disposal of <sup>Such</sup> ~~the~~ ~~afforementioned~~ application.



Sd/-  
JUDGE

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JUDGE